

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/712,808	09/12/96	BRYANT	F 93-C-20C1

B5M1/1204

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EXAMINER

NGO, N

ART UNIT

PAPER NUMBER

2503

DATE MAILED:

12/04/97

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/712808

Applicant(s)

Bryant et al

Examiner

Ngan Ngo

Group Art Unit

2503

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE Three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 9-8-17
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1 to 19 is/are pending in the application.
- Of the above claim(s) 6 to 12 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1 to 5 and 13 to 19 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

The response filed September 8, 1997 has been entered and made of record as paper no. 3.

Applicant's election with traverse of claims 1-5 and 13-19 in Paper No. 3 is acknowledged. The traversal is on the ground(s) that "restriction is proper only when the claims are independent AND distinct". This is not found persuasive because what is alleged by applicant is an indefiniteness in the language of the law for "independent" means that there is no disclosed relationship between inventions and "distinct" meaning something different which encompasses "related" inventions. Many of these related inventions are considered by the Patent Office to be never-the-less divisionable. When a law has an apparent contradiction therein, one has to look at the hearing of the committees as to the actual intent of the law. As recited in MPEP 802.01, "[n]othing in the language of the statute and nothing in the hearings of the committees indicate any intent to change the substantive law on this subject (of division)". If applicant's position is correct, then almost every judge has gone against the law. The examiner contends that this is not the case. If applicant persists on his/her interpretation of the statute then he/she should back it up with evidence from the hearings of the committees that applicant's position was the actual intent of law and present this before the Commissioner of the Patent Office. Until such a time the Examiner will follow the policy set forth by the

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Commissioner of the Patent Office as set forth by MPEP 802.01.

The requirement is still deemed proper and is therefore made FINAL.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1-5 and 13-19 are rejected under 35 U.S.C. § 103 as being unpatentable over Ando et al.

Ando discloses an SDRAM in which the gate oxide of the

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transfer gate transistors(3b) is thicker than the gate oxide of pull-down transistors(3a). It would have been obvious to one of ordinary skill in the art at the time this invention was made to use the teachings of Ando to form the claimed device.

The other references are cited to show other structures pertinent to Applicants' disclosure.

Any inquiry concerning this communication should be directed to Examiner Ngan Ngo at telephone number (703) 308-4938. The fax phone number for the Art unit is (703) 308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.



NGAN V. NGO
PRIMARY EXAMINER
GROUP 2500

Ngan Ngo

November 26, 1997